

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS

TRAVIS GOLDEN,	:	Case No. 2:23-cv-07
	:	
Plaintiff,	:	
	:	
vs.	:	District Judge Michael H. Watson
	:	Magistrate Judge Peter B. Silvain, Jr.
	:	
THE OHIO DEPARTMENT OF	:	
REHAB. AND CORR., <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER

Plaintiff, a prisoner currently housed at the Ross Correctional Institution, has filed a *pro se* civil rights action pursuant to 42 U.S.C. § 1983. Before the Court is Plaintiff’s Motion for Default Judgement. (Doc. 10).

On June 9, 2023, the Magistrate Judge issued a Report and Recommendation (“R&R”) regarding this case. The R&R recommended dismissing Plaintiff’s Eighth Amendment claims against the Ohio Department of Rehabilitation and Correction (“ODRC”) and against Warden Doe #2 in his official capacity but permitting Plaintiff’s individual-capacity claim against Warden Doe #2 to proceed. (Doc. 7). Specifically, the R&R concluded that the ODRC was not a “person” for § 1983 purposes and that sovereign immunity bars Plaintiff’s claim against it. (*Id.*). The R&R similarly concluded that sovereign immunity barred Plaintiff’s official-capacity claim against Warden Doe #2. (*Id.*). The R&R permitted Plaintiff to serve his Complaint in attempt to identify Warden Doe #2 through discovery. The District Judge adopted the R&R in its entirety on July 7, 2023. (Doc. 9).

To assist in identifying Warden Doe # 2, Plaintiff was granted leave to proceed against the current MaCI Warden, Jenny Hildebrand, for this sole purpose. (*See* Doc. 7, at PageID 56). Plaintiff was ordered to submit completed summons and U.S. Marshal forms for Warden Hildebrand to the Court for service of process. The Court explained that “once plaintiff discovers the name of defendant Warden Doe #2, he will be required to amend his Complaint to identify him and the current MaCI Warden will be dismissed.” (*Id*). It appears that Plaintiff mailed the service forms directly to Warden Hildebrand instead of the Court. (*See* Doc. 8).

Accordingly, Plaintiff’s motion for default Judgment (Doc. 10) is **DENIED**. Plaintiff is **ORDERED** to submit to the Court completed summons and U.S. Marshall forms for MaCI Warden Jenny Hildebrand within **THIRTY (30) DAYS** of the date of this Order. The **CLERK OF COURT** is **DIRECTED** to send to Plaintiff a summons form and a U.S. Marshal form for this purpose. Upon receipt of the completed summons and U.S. Marshal forms, the Court **ORDERS** service of process by the United States Marshal in this case as directed by Plaintiff.

Plaintiff is advised that failure to comply with this Order may result in the dismissal of this action for want of prosecution.

IT IS SO ORDERED.

October 5, 2023

s/Peter B. Silvain, Jr.

PETER B. SILVAIN, JR.

United States Magistrate Judge